No. 84-363

Office-Supreme Court, U.S.
FILED
OCT 16 1984
ALEXANDER L. STEVAS
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

NORTHEAST BANCORP, INC., UNION TRUST COMPANY and CITICORP,

Petitioners,

—against—

THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,

Respondent,

—and—

BANK OF NEW ENGLAND CORPORATION, CBT CORPORATION, HARTFORD NATIONAL CORPORATION, THE COMMONWEALTH OF MASSACHUSETTS, THE STATE OF CONNECTICUT and BANK OF BOSTON CORPORATION,

Intervenor-Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

OBJECTION OF INTERVENOR-RESPONDENTS HARTFORD NATIONAL CORPORATION, CBT CORPORATION AND BANK OF NEW ENGLAND CORPORATION TO THE MOTION OF THE CHASE MANHATTAN CORPORATION FOR LEAVE TO FILE A BRIEF AMICUS CURIAE IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI

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Intervenor-Respondents Hartford National Corporation ("HNC"), CBT Corporation ("CBT") and Bank of New England Corporation ("BNE") (collectively, "Respondents") respectfully submit this objection to the motion of The Chase

Manhattan Corporation ("Chase") pursuant to Rule 36.3 of the Rules of the Supreme Court of the United States for leave to file a brief *amicus curiae* in support of the petition for writ of certiorari in the above-captioned proceeding.

Argument

In support of its motion, Chase represents that it "has been unable to obtain the consent of all intervenor-respondents to the filing of the attached brief *amicus curiae*." Mo. ¶ 1. In fact, prior to filing the instant motion, Respondents each *refused* Chase's request for written consent to the filing of such a brief.

Under the Rules of this Court, when the consent of a party to a proceeding has been refused, a motion for leave to file a brief *amicus curiae* prior to the Court's consideration of the petition for a writ of certiorari "is not favored."[1] In such circumstances, the motion must:

> set forth facts or questions of law that have not been, or reasons for believing that they will not adequately be, presented by the parties. . . .[2]

Because it is clear from its own papers that Chase's participation in this proceeding will merely duplicate that of petitioner Citicorp, Chase has not and cannot satisfy this Court's prerequisite for filing an *amicus* brief in support of a petition for writ of certiorari.

Chase is in precisely the same posture in this action as petitioner Citicorp (*see* Pet. at 3): it is a New York bank holding company operating through non-bank subsidiaries in Connecticut and Massachusetts; and it claims that the decision below of the United States Court of Appeals for the Second Circuit (upholding statutes enacted by Massachusetts and Con-

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1 Rule 36.1, Rules of the Supreme Court of the United States.

2 *Id.*, Rule 36.3.

necticut that permit acquisitions of banks in those states by *New England* bank holding companies) will adversely affect its ability "to compete on equal terms in New England's full-service banking market." Mo. ¶ 3. Nowhere does Chase even attempt to explain why its interest will not adequately be represented in this Court by petitioners. Nor could any such claim plausibly be made. To the contrary, petitioner Citicorp has vigorously asserted before the Federal Reserve Board, the Second Circuit and in this Court the identical interest Chase now seeks to assert in this case. Indeed, Chase chose *not* to participate in any of the extensive prior proceedings in this case, although it was free to do so,[3] leaving its interest to be represented by petitioner Citicorp.

Chase also has failed to identify a single argument of substance that it would assert in this proceeding that has not already been fully presented by petitioners. Chase's arguments in its proposed brief in support of a writ of certiorari are simply a restatement of those made in the petition.[4] Under these circumstances, Chase's participation at this point in the case is unwarranted and will serve only to increase unnecessarily the burden of this Court.

Conclusion

For the foregoing reasons, the motion of The Chase Manhattan Corporation for leave to file a brief *amicus curiae* in support of the petition for writ of certiorari should be denied.

Respectfully submitted,

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3 *See* 12 U.S.C. §§ 1848, 1850.

4 Both Chase and petitioners argue that a writ of certiorari should issue because this case purportedly raises questions of far-reaching importance to the nation's banking system and because the challenged statutes purportedly violate the Commerce and Compact Clauses. *Compare* Chase Br. at 6-9, 11-19, *with* Pet. at 9-29.

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